

Message Text

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ACTION L-03

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FM AMEMBASSY LIMA

TO SECSTATE WASHDC 5418

C O N F I D E N T I A L L I M A 3011

E. O. 11652: GDS

TAGS: BDIS, ENRG, PE

SUBJ: CONCHAN - EXHAUSTION OF LEGAL REMEDIES

REF: STATE 80047, LIMA 2122 AND PREVIOUS

1. CONCHAN LAWYERS IN LIMA HAVE FILED A CLAIM WITH THE CIVIL COURT REQUESTING THAT THE TAX COURT VERDICT OF MAY 16, 1972, BE OVERTURNED. THE GOP ATTORNEY GENERAL HAS MADE TWO OBJECTIONS, (A) THAT THE CLAIM CANNOT BE RECEIVED WITHOUT PRIOR PAYMENT OF THE AWARD, AND (B) THAT CONCHAN' S REPRESENTATIVE LACKS SUFFICIENT PROXY POWER TO FILE CLAIM. CONCHAN LAWYER ARGUED, AND COURT ACCEPTED HIS ARGUMENT, THAT BECAUSE CONCHAN HAS NO REMAINING ASSETS, THE COMPANY IS UNABLE TO COMPLY WITH THE NORMAL PROCEDURE OF PAYING THE TAX AWARD BEFORE MAKING THE CALIM. THE COURT ACCEPTED THE ATTORNEY GENERAL' S SECOND OBJECTION, HOWEVER, AND CONCHAN HAS APPELED THIS. THE PROXY CASE IS NOW BEFORE THE SUPERIOR COURT OF LIMA.

2. THE LOCAL CONCHAN REPRESENTATIVE ALSO HAS CHALLENGED THE AUCTION ON THE BASIS OF NINE PROCEDURAL DEFECTS AND HAS FILED AN APPEAL TO THE SUPERIOR COURT OF LIMA. THESE ALLEGED DEFECTS CONCERN NOT ONLY THE AUCTION PROCEDURE ITSELF BUT ALSO THE WAY IN WHICH THE COMPANY WAS RUN DURING THE NINE- MONTH INTERVENTION PERIOD.

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3. IN PURCHASING ASSETS, GOP DID NOT ASSUME LIABILITIES. FOREIGN LIABILITIES WERE GUARANTEED BY AND PRESUMABLY WILL BE HONORED BY SOCAL. LOCAL DEBTS REMAIN OUTSTANDING. GOP DID ASSUME SEVERANCE PAY OBLIGATIONS

4. CONCHAN LAWYER IN LIMA FEELS HE IS CARRYING OUT A HOLDING ACTION AND DOES NOT HAVE MUCH HOPE THAT JUDGMENT WILL BE REVERSED. HE WANTS TO KEEP THE DOOR OPEN IN THE EVENT, ALBEIT UNLIKELY, THAT GOP MIGHT CHANGE ITS POLICY; IN DOING SO HE IS EXHAUSTING THE LEGAL REMEDIES AVAILABLE.

5. COPEIS OF AUCTION NOTICES AND OTHER PERTINENT DOCUMENTS, INCLUDING CONCHAN' S APPEAL, ARE BEING POUCHED TO ARA/ LA/ EP
BELCHER

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NMAFVVZCZ

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*** Current Classification *** CONFIDENTIAL

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